

PATENT COOPERATION TREATY

From the:
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

DIARIED

PCT ID. 313670

WRITTEN OPINION 311213
(PCT Rule 66)

<p>To:</p> <p>Griffith Hack GPO Box 1285K MELBOURNE VIC 3001</p> <p>RECEIVED 2. J.S.B. 3.</p>		<p>GRIFFITH HACK 15 JUL 2004</p>	<p>Date of mailing (day/month/year)</p> <p>14 JUL 2004</p>
<p>Applicant's or agent's file reference</p> <p>FP18655</p>		<p>REPLY DUE</p>	<p>within TWO MONTHS from the above date of mailing</p>
International Application No.	PCT/AU2003/001496	International Filing Date (day/month/year)	Priority Date (day/month/year)
		13 November 2003	2 December 2002
<p>International Patent Classification (IPC) or both national classification and IPC</p> <p>Int. Cl. 7 D06B 7/02, D06M 11/40</p>			
<p>Applicant</p> <p>COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION et al</p>			

1. This written opinion is the **first** drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I Basis of the opinion
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

3. The **FINAL DATE** by which the international preliminary examination report must be established according to Rule 69.2 is:
2 April 2005

The applicant is hereby invited to reply to this opinion.

When? See the Reply Due date indicated above. However, the Australian Patent Office will not establish the Report before the earlier of (i) a response being filed, or (ii) one month before the Final Date by which the international preliminary examination report must be established. The Report will take into account any response (including amendments) filed before the Report is established.

If no response is filed by 1 month before the Final Date, the international preliminary examination report will be established on the basis of this opinion.

Applicants wishing to have the benefit of a further opinion (if needed) before the report is established should ensure that a response is filed at least 3 months before the Final Date by which the international preliminary examination report must be established.

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3.
For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis.
For an informal communication with the examiner, see Rule 66.6.

<p>Name and mailing address of the IPEA/AU</p> <p>AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929</p>	<p>Authorized Officer</p> <p>M. BREMERS Telephone No. (02) 6283 2052</p>
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I. Basis of the opinion

1. With regard to the elements of the international application:*

the international application as originally filed.

the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of

the claims, pages , as originally filed,
pages , as amended under Article 19,
pages , filed with the demand,
pages , received on with the letter of

the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of

the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

the language of publication of the international application (under Rule 48.3(b)).

the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

contained in the international application in printed form.

filed together with the international application in computer readable form.

furnished subsequently to this Authority in written form.

furnished subsequently to this Authority in computer readable form.

The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

the description, pages

the claims, Nos.

the drawings, sheets/fig.

5. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"

IV. Lack of unity of invention

1. In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional fees the applicant has:

- restricted the claims.
- paid additional fees.
- paid additional fees under protest.
- neither restricted nor paid additional fees.

2. This Authority found that the requirement of unity of invention is not complied with for the following reasons and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees:

The international application does not comply with the requirements of unity of invention because it does not relate to one invention or to a group of inventions so linked as to form a single general inventive concept. In coming to this conclusion the International Preliminary Examination Authority has found that there are different inventions as follows:

1. Claims 1-36 are directed to a process and apparatus for the mercerisation of unconstrained cellulosic fibres wherein the fibres are held to prevent shrinkage during transport through the mercerising and rinsing zones. It is considered that the prevention of shrinkage of unconstrained fibres during mercerisation comprises a first "special technical feature".
2. Claim 37 is directed to an apparatus for the prevention of shrinkage of fibres during a treatment. It is considered that the conveyor for holding the fibres comprises a second "special technical feature".

These groups are not so linked as to form a single general inventive concept, that is, they do not have any common inventive features, which define a contribution over the prior art. The common concept linking together these groups of claims is the prevention of fibre shrinkage during a treatment. However this concept is not novel in the light of the prior art described at page 1 lines 33-36 of the present application and GB 2236770 A (LEUNG SUI KI) 17 April 1991, see the abstract. Therefore these claims lack unity a posteriori.

No search was conducted against claim 37.

3. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- all parts.
- the parts relating to claims Nos. 1-36 and 38 (when appended to claims 1-36)

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims 1-36, 38	YES
	Claims	NO
Inventive step (IS)	Claims 6-20, 23-36	YES
	Claims 1-5, 21, 22, 38	NO
Industrial applicability (IA)	Claims 1-36, 38	YES
	Claims	NO

2. Citations and explanations

D1: GB 2236770 A (LEUNG SUI KI) 17 April 1991

D2: GB 2125836 A (TOYO BOSEKI) 14 March 1984

D3: JP 08-035164 A (TOSUKO KK) 6 February 1996

D1 discloses the mercerisation of cotton fibres wherein the fibres are compressed to prevent contraction during mercerisation and washing. Although the mercerisation and washing steps are conducted in the one container, this is considered to be equivalent to transporting the fibres to separate zones. Therefore, claim 1 lacks an inventive step. The features of the claims 2-5, 21, 22 and 38 are either disclosed in the above document or are features that cannot be considered to involve an inventive step.

D2 and D3 are merely cited as "A" category because either shrinking occurs or it is not clear that it is prevented from occurring.